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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,033	01/16/2001	John Addink	302.31-US1	5699

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10/16/2002

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EXAMINER

LEE, PATRICK J

ART UNIT

PAPER NUMBER

2878

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/764,033		ADDINK ET AL.	
	Examiner		Art Unit	
	Patrick J. Lee		2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Originally numbered claim 12 regarding the amount comprising a percentage has been renumbered 14.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,9 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller 5,479,339. Miller discloses an irrigation control and management system that measures the amount of evaporation with an evapotranspiration sensing device (23), compares with historical data located in a storage device (31), and determines a reference weather data amount based on historical or current weather data accumulation through

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the use of a microprocessor (14). Based on the amount of evapotranspiration, the system can alert an operator through display (33). As stated in column 4, lines 12-14, although an evapotranspiration sensing device is most applicable for irrigation purposes, any device that can provide weather data is acceptable. The sensing device is designed to collect data in real-time fashion, which allows for current conditions to be measured (see column 5, lines 16-21). A storage device (31) stores both data collected by the device (column 5, lines 63-67) and historical weather data (column 6, lines 40-48).

With respect to claim 9, it is inherent that the microprocessor (14) is in communicative contact with the measuring device (23) so that the microprocessor can receive the weather data from the measuring device.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2-8, 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller 5,479,339.

With respect to claims 2 and 3, Miller does not explicitly disclose the use of a solar radiation sensor or a temperature sensor, but states the use of a weather determining means. However, it is known to include amount of sunlight and temperature as variables measured by their respective sensors to determine the weather. Thus, it would have been obvious to one of ordinary skill in the art to substitute different sensors, such as temperature or solar radiation sensors, in order to assess the weather.

With respect to claim 4, Miller fails to disclose the use of a storage device that comprises a non-volatile memory. Miller instead teaches the use of a read-and-write memory (31). However, it would have been obvious at the time of the invention to one skilled in the art to use a non-volatile memory as it provides only a read-only mode. This would prevent any accidental loss of data by writing over previous historical data.

With respect to claim 5-6, while Miller does not state that the storage device and microprocessor are located together, it would have been obvious at the time of the invention to one of ordinary skill in the art to place the two components adjacent to each other either in an irrigation controller or a personal computer. This would allow for accurate transfer of historical data from the storage device to the microprocessor with a diminished possibility of disruption of the data link.

With respect to claims 7-8, Miller discloses (see column 4, lines 40-45) that the sensing device (23) is located very close to the station (10), which includes the control unit (14) for convenience purposes. It would have been obvious to one of ordinary skill in the art at the time of the invention to place the sensing device either local or distal to the microprocessor. Reasons could either include convenience in terms of maintenance (local) or convenience in terms of collection of accurate data (distal).

With respect to claims 10-11, Miller does not disclose whether the connection between the microprocessor (14) and the sensing device (23) is wireless or wired. However, it would have been obvious at the time of the invention to one of ordinary skill in the art to utilize a wireless connection in order to obtain measurements from distant locations not conducive to wiring. In addition, it also would have been obvious to one of ordinary skill in the art to utilize a wired connection due to its reduced expenses in comparison to a wireless connection.

With respect to claim 12, Miller (see Miller claim 44) discloses a system which signals to an operator should projected water usage approach a threshold. It would have been obvious to one of ordinary skill in the art to use an audible signal should the amount exceed a threshold in order to effectively catch the attention of the operator.

With respect to claims 13-14, Miller's invention determines a reference weather data amount based on historical and current weather data accumulation (see column 12, lines 46-50). However, it would have been obvious to one of ordinary skill in the art that the amount calculated be either a percentage or number based on the weather data in order to get an accurate estimate of how the current data compares to historical data.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are of interest as they disclose different weather sensors/warning systems:

- a. U.S. Pat. No. 6,177,873 to Cragun
- b. Japan Pat. No. 411258358A to Furuta et al

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick J. Lee whose telephone number is (703) 305-3871. The examiner can normally be reached on Monday through Friday, 7:30 am to 4:00 pm.

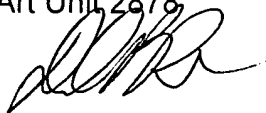
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (703) 308-4852.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

PJL

October 9, 2002

Patrick J. Lee
Examiner
Art Unit 2878



DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800